

Steven A. Lucia, Esq.
PHETERSON SPATORICO LLP
CULVER ROAD ARMORY
145 CULVER ROAD, SUITE 100
ROCHESTER, NY 14620
(585) 546-5600
steven.lucia@psnlawgroup.com

Attorneys for Defendant Farmer John's Popcorn, L.L.C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KIMBERLY CORLESS and JACOB GOLDSTEIN,
individually and on behalf of all others similarly situated,

Plaintiff,

-against-

FARMER JON'S POPCORN, L.L.C.,

Defendant.

Docket No.: 1:25-cv-03304-VM

**ANSWER AND
AFFIRMATIVE DEFENSES**

Defendant, Farmer Jon's Popcorn, L.L.C., by and through its attorneys Pheterson Spatorico LLP, hereby submits its Answer and Affirmative Defenses to the Complaint of Plaintiffs as follows:

1. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint including Footnote 1 thereto.
2. Denies the allegations contained in Paragraph 2 of the Complaint.
3. Answering Paragraph 3 of the Complaint, denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in said paragraph with respect to the accuracy of the alleged statements noted in said paragraph and respectfully directs the Court to any such statements for their precise terms.

4. Answering Paragraph 4 of the Complaint, denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in said paragraph and further states that said paragraph contains a legal conclusion as to which no response is required.

5. Answering Paragraph 5 of the Complaint states only that said paragraph contains a legal conclusion as to which no response is required.

6. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint.

7. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint.

8. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint and states only that said paragraph contains a legal conclusion as to which no response is required.

9. Answering Paragraph 9 of the Complaint, denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint and further that said paragraph contains a legal conclusion as to which no response is required.

10. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint and further that said paragraph contains a legal conclusion as to which no response is required.

11. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint.

12. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint.

14. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint.

15. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint.

16. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint.

17. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint.

18. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint.

19. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint.

20. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint.

21. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint.

22. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Complaint and states that said paragraph contains legal conclusions as to which no response is required.

23. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint.

24. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Complaint.

25. Admits the allegations contained in Paragraph 25 of the Complaint.

26. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Complaint and Footnote 2 therein with respect to the source of the alleged advertising noted in said paragraph and respectfully directs the Court to any such advertising for its precise terms.

27. Admits the allegations contained in Paragraph 27 of the Complaint.

28. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint and Footnote 4 therein with respect to the source of the alleged advertising noted in said paragraph and respectfully directs the Court to any such advertising for its precise terms.

29. Admits the allegations contained in Paragraph 29 of the Complaint.

30. Answering Paragraph 30 of the Complaint and Footnote 5 thereof, admits only that “Defendant offers the Butter Popcorn Products under its brand Farmer Jon’s Popcorn,” but as thus expressly admitted denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph and respectfully directs the Court to any such statements or packaging referenced therein for their precise terms.

31. Denies the allegations contained in Paragraph 31 of the Complaint.

32. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint.

33. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the Complaint and states further that said paragraph contains a legal conclusion as to which no response is required.

34. Answering Paragraph 34 of the Complaint states only that said paragraph purports to state applicable law and as to which no response is required.

35. Answering Paragraph 35 of the Complaint states only that said paragraph purports to state applicable law and as to which no response is required.

36. Answering Paragraph 36 of the Complaint states only that said paragraph purports to state applicable law and as to which no response is required.

37. Answering Paragraph 37 of the Complaint states only that said paragraph purports to state applicable law and as to which no response is required.

38. Answering Paragraph 38 of the Complaint states only that said paragraph purports to state applicable law and as to which no response is required.

39. Answering Paragraph 39 of the Complaint states only that said paragraph purports to state applicable law and as to which no response is required.

40. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint.

41. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint and Footnote 6 therein.

42. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42 of the Complaint and Footnote 7 therein with respect to the source of the alleged packaging noted in said paragraph and respectfully directs the Court to any such packaging for its precise terms.

43. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the Complaint and Footnote 8 therein.

44. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of the Complaint.

45. Denies the allegations contained in Paragraph 45 of the Complaint.

46. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Complaint and further states that said paragraph purports to state applicable law as to which no response is required.

47. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Complaint.

48. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Complaint.

49. Denies the allegations contained in Paragraph 49 of the Complaint.

50. Denies the allegations contained in Paragraph 50 of the Complaint.

51. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of the Complaint.

52. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of the Complaint.

53. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of the Complaint and further states that said paragraph purports to state applicable law as to which no response is required.

54. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of the Complaint.

55. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Complaint and further states that said paragraph purports to state applicable law as to which no response is required.

56. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56 of the Complaint and further states that said paragraph purports to state applicable law as to which no response is required.

57. Denies the allegations contained in Paragraph 57 of the Complaint.

58. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Complaint and further states that said paragraph purports to state applicable law as to which no response is required.

59. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 of the Complaint with respect to the source of the alleged packaging noted in said paragraph and respectfully directs the Court to any such packaging for its precise terms.

60. Denies the allegations contained in Paragraph 60 of the Complaint.

61. Denies the allegations contained in Paragraph 61 of the Complaint.

62. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 of the Complaint.

63. Answering Paragraph 63 of the Complaint, Defendant denies that it made any “misrepresentations and omissions related to the marketing and advertising of its Butter Popcorn Products” or that Defendant “concealed them” as alleged in said paragraph and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations in said paragraph.

64. Answering Paragraph 64 of the Complaint, denies “knowing, active and ongoing concealment of the facts as alleged herein” as alleged in said paragraph and further states that the remaining allegations in said paragraph contain a legal conclusion as to which no response is required.

65. Answering Paragraph 65 of the Complaint states that said paragraph contains a legal conclusion as to which no response is required.

66. Denies the allegations contained in Paragraph 66 of the Complaint.

67. Denies that Defendant “[failed] to disclose [] non-public information” as alleged in Paragraph 67 of the Complaint and denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations in said paragraph.

68. Denies the allegations contained in Paragraph 68 of the Complaint.

69. Denies the allegations contained in Paragraph 69 of the Complaint and further states that said paragraph contains a legal conclusion as to which no response is required.

70. Denies the allegations contained in Paragraph 70 of the Complaint and further states that said paragraph contains a legal conclusion as to which no response is required.

71. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of the Complaint and Footnotes 9 and 10 therein and further states that said paragraph contains a legal conclusion as to which no response is required.

72. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72 of the Complaint.

73. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 73 of the Complaint.

74. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 74 of the Complaint.

75. Answering Paragraph 75 and subparagraphs (a) through (n) of the Complaint, states that said paragraphs contain legal conclusions as to which no response is required and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations in said paragraph.

76. Answering Paragraph 76 of the Complaint, denies that “all Class Members have been deceived (or were likely to be deceived) by Defendant’s false and misleading advertising claims about Defendant’s Butter Popcorn Products” as alleged in said paragraph and denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations in said paragraph.

77. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of the Complaint.

78. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of the Complaint.

79. Answering Paragraph 79 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-78 hereof as if fully set forth herein.

80. Answering Paragraph 80 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

81. Answering Paragraph 81 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

82. Denies the allegations contained in Paragraph 82 of the Complaint.

83. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 83 of the Complaint.

84. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 84 of the Complaint.

85. Answering Paragraph 85 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

86. Answering Paragraph 86 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-85 hereof as if fully set forth herein.

87. Denies the allegations contained in Paragraph 87 of the Complaint.

88. Denies the allegations contained in Paragraph 88 of the Complaint.

89. Denies the allegations contained in Paragraph 89 of the Complaint.

90. Denies the allegations contained in Paragraph 90 of the Complaint.

91. Denies the allegations contained in Paragraph 91 of the Complaint.

92. Denies the allegations contained in Paragraph 92 of the Complaint.

93. Denies the allegations contained in Paragraph 93 of the Complaint.

94. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of the Complaint.

95. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 95 of the Complaint.

96. Denies the allegations contained in Paragraph 96 of the Complaint.

97. Answering Paragraph 97 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-96 hereof as if fully set forth herein.

98. Answering Paragraph 98 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

99. Answering Paragraph 99 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

100. Denies the allegations contained in Paragraph 100 of the Complaint.

101. Answering Paragraph 101 of the Complaint, denies “[making] misrepresentations, including the prominent labeling of the Butter Popcorn Products with the misleading ‘butter’ claim” and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

102. Answering Paragraph 102 of the Complaint, denies that it made “material misrepresentations regarding the presence of butter in the Butter Popcorn Products” and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

103. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 103 of the Complaint.

104. Answering Paragraph 104 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-103 hereof as if fully set forth herein.

105. Answering Paragraph 105 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

106. Answering Paragraph 106 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

107. Denies the allegations contained in Paragraph 107 of the Complaint.

108. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 108 of the Complaint.

109. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint.

110. Answering Paragraph 110 of the Complaint, denies that it made “material misrepresentations regarding the presence of butter in the Butter Popcorn Products” and further

denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

111. Answering Paragraph 111 of the Complaint, denies that it took “unlawful actions” or “misleading and unlawful acts” and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

112. Answering Paragraph 112 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-111 hereof as if fully set forth herein.

113. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 113 of the Complaint.

114. Answering Paragraph 114 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

115. Answering Paragraph 115 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

116. Answering Paragraph 116 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

117. Answering Paragraph 117 of the Complaint, denies that “Defendant misrepresented that the Butter Popcorn Products contained ‘butter’,” that said paragraph contains legal conclusions as to which no response is required and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

118. Answering Paragraph 118 of the Complaint, Defendant denies that its products “misrepresented and/or omitted the true nature of its legality” or that “Defendant’s labels misrepresented and/or omitted the legality of the Butter Popcorn Products” and further denies

knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

119. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 119 of the Complaint.

120. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 120 of the Complaint.

121. Denies the allegations contained in Paragraph 121 of the Complaint.

122. Answering Paragraph 122 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

123. Answering Paragraph 123 of the Complaint, denies having engaged in any “misleading and deceptive practices” as alleged in said paragraph and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

124. Answering Paragraph 124 of the Complaint, denies having engaged in any “unlawful, unfair and fraudulent acts ad practices,” states that said paragraph contains legal conclusions as to which no response is required and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

125. Answering Paragraph 125 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-124 hereof as if fully set forth herein.

126. Answering Paragraph 126 of the Complaint, denies having engaged in any “violations of the state consumer protection statutes listed above in paragraph 63, footnote 10,” states that said paragraph contains legal conclusions as to which no response is required and further

denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

127. Answering Paragraph 127 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

128. Answering Paragraph 128 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

129. Answering Paragraph 129 of the Complaint, denies that Defendant made any “misrepresentations” as alleged in said paragraph and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

130. Denies the allegations contained in Paragraph 130 of the Complaint.

131. Answering Paragraph 131 of the Complaint, denies that Defendant engaged in any “violations of the aforementioned states’ unfair and deceptive practices laws” as alleged in said paragraph and further denies knowledge and information sufficient to form a belief as to the truth of all remaining allegations contained in said paragraph.

132. Denies the allegations contained in Paragraph 132 of the Complaint.

133. Answering Paragraph 133 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

134. Answering Paragraph 134 of the Complaint, repeats and realleges each and every response, denial and denial of information alleged in paragraphs 1-133 hereof as if fully set forth herein.

135. Denies the allegations contained in Paragraph 135 of the Complaint.

136. Denies the allegations contained in Paragraph 136 of the Complaint.

137. Denies the allegations contained in Paragraph 137 of the Complaint.

138. Denies the allegations contained in Paragraph 138 of the Complaint.

139. Answering Paragraph 139 of the Complaint states that said paragraph contains legal conclusions as to which no response is required.

140. Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 140 of the Complaint.

141. Denies each and every allegation contained in the Complaint not heretofore expressly denied or otherwise controverted.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which any relief can be granted to Plaintiff, is frivolous and without merit.

SECOND AFFIRMATIVE DEFENSE

Plaintiff failed to sustain any damages as the result of any action or inaction by Defendant.

THIRD AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate any alleged damages.

FOURTH AFFIRMATIVE DEFENSE


Plaintiff's Complaint is barred by the doctrines of laches, waiver, unclean hands and/or estoppel.

WHEREFORE, Defendant respectfully requests that the Court enter judgment in its favor dismissing Plaintiff's Complaint in its entirety, awarding Defendant all its costs and fees incurred

in this action as well as for such other and further relief as the Court deems just and proper.

Dated: May 20, 2025
Rochester, New York

Respectfully submitted,
PHETERSON SPATORICO LLP

By 

Steven A. Lucia (SL-0459)
Culver Road Armory
145 Culver Road, Suite 100
Rochester, NY 14620
T: (585) 546-5600
F: (585) 730-8360
steven.lucia@psnlawgroup.com

*Attorneys for Defendant
Farmer Jon's Popcorn, L.L.C.*